

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GARY RIHN, BONITA RIHN)	
)	
Plaintiffs)	
)	Case No: 4:07CV00197 ERW
vs.)	
)	
TYOKA JACKSON)	
)	
Defendant.)	

**MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION IN LIMINE
REGARDING EVIDENTIARY ISSUES**

COMES NOW Defendant Tyoka Jackson and submits this memorandum in support of his motion in limine regarding the exclusion of certain evidentiary issues as follows:

1. That this is a bifurcated trial and although the jury will be asked to determine whether punitive damages should be rewarded, the law is clear that the jury should not hear any evidence or suggestion that the defendant is a wealthy individual or has significant assets in the first part of the trial pursuant to R.S.Mo. Section 510.263.

2. Defendant briefed this point in the trial memorandum submitted as part of the pre-trial compliance. The issue of what happened on the airplane is the issue for the jury in this case and the fact that the FAA may have decided to issue a complaint should not be admissible. The Defendant never admitted guilt or was ever found at fault and the purpose of the settlement with the FAA was an economic one to avoid having to go through a separate administrative proceeding and possible appeal of that complaint.

3. The Plaintiff is claiming that as a result of the incident on the airplane he sustained psychological injury and sought treatment with a psychologist, Dr. Neil Aronov. The

Plaintiff has previously deposed Dr. Aronov by videotape on July 13, 2007. In that deposition the Plaintiff's attorney questioned the doctor regarding the treatment as well as his opinions and conclusions regarding the diagnosis of the Plaintiff and the causal relationship of that diagnosis and condition.

The Plaintiff's attorney has advised defense counsel that he will be flying Dr. Neil Aronov up to St. Louis for trial. Defendant is requesting that the Court limit Dr. Aronov's testimony to that testimony previously given in the deposition. The Plaintiff has never endorsed Dr. Aronov as a retained expert nor has the Plaintiff produced a report pursuant to Rule 26. The Defendant in this case did retain Dr. Stacey Smith, a psychiatrist to evaluate and test the Plaintiff. Pursuant to Rule 26, Dr. Stacey Smith prepared a report and that report was provided to Plaintiff's counsel. As Plaintiff has never endorsed Dr. Aronov as an expert and has not filed any report pursuant to Rule 26, Dr. Aronov's testimony should be limited to his treatment and opinions contained in the medical records. Dr. Aronov should not be allowed to testify regarding Dr. Smith's examination or opinion.

4. Plaintiff has listed medical records and bills in his exhibits. Plaintiff has not identified any witness and certainly no medical expert who can testify that the treatment was medically necessary or any charges were reasonable. *Williams v. Jacobs*, 1972 S.W.2d 334 (Mo.App. 1998) Plaintiff should be excluded from testifying he had an MRI or any physical injury from the incident on the airplane.

5. Witnesses in depositions have testified regarding police meeting the plane and coming on board to escort Defendant off the plane. Defendant has filed objections to Plaintiff's deposition designations as to that testimony. Defendant's motion goes to any witness testifying as to evidence of any police involvement. That evidence is irrelevant to what occurred on the

airplane. Furthermore, this type of evidence would be more prejudicial than probative of any point in the case and should be excluded under Rule 403 of the Federal Rules of Evidence.

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CERTIFICATE OF SERVICE

I hereby certify that on March 7, 2008, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon the following: **Douglas P. Dowd**, Attorney for Plaintiffs, 100 N. Broadway, Suite 1600, St. Louis, Missouri 63102.

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